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UNITED STATES DISTRICT COURT

9 NORTHERN DISTRICT OF CALIFORNIA, SAN JOSE DIVISION

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11 ADAM ROSH, individually, on behalf of  
others similarly situated, and on behalf of the  
general public,

12 Plaintiff,

13 vs.

14 INDEED, INC.,

15 Defendant.

16 Case No. 5:13-cv-03751-RMW

17 **DECLARATION OF MATTHEW C.  
HELLAND IN SUPPORT OF MOTION  
FOR ATTORNEY'S FEES**

18 Date: September 5, 2014

Time: 9:00 a.m.

Judge: Hon. Honorable Ronald M. Whyte  
Crtrm: 6

Complaint filed: August 13, 2013

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1       1. My name is Matthew C. Helland. I am an attorney with the law firm of Nichols  
 2 Kaster and am counsel of record for Plaintiffs in this action. I submit this declaration based on  
 3 my own personal knowledge.

4       2. Nichols Kaster filed 188 individual arbitration demands and thirty-seven separate  
 5 federal district court actions stemming from the decertification of *Sliger v. Prospect Mortgage,*  
 6 *LLC*, No. 2:11-CV-465 (E.D. Cal.), a collective action lawsuit to recover overtime pay. *See James*  
 7 *Barker, et al. v. Prospect Mortgage, LLC*, No. 2:13-00822 (D. Ariz. filed Apr. 23, 2013); *Osric*  
 8 *Brown, et al. v. Prospect Mortgage, LLC*, No. 2:13-02850 (C.D. Cal. filed Apr. 23, 2013); *Bonny*  
 9 *Franklin, et al. v. Prospect Mortgage, LLC*, No. 2:13-00790 (E.D. Cal. filed Apr. 23, 2013);  
 10 *Javan Devore, et al. v. Prospect Mortgage, LLC*, No. 3:13-01841 (N.D. Cal. filed Apr. 23, 2013);  
 11 *Otto Miiller v. Prospect Mortgage, LLC*, No. 1:13-01079 (D. Colo. filed Apr. 23, 2013); *Shelley*  
 12 *Adams, et al. v. Prospect Mortgage, LLC*, No. 3:13-00581 (D. Conn. filed Apr. 22, 2013); *David*  
 13 *Henson v. Prospect Mortgage, LLC*, No. 1:13-00719 (D. Del. filed Apr. 25, 2013); *Michael*  
 14 *Graham, et al. v. Prospect Mortgage, LLC*, No. 8:13-01050 (M.D. Fla. filed Apr. 22, 2013);  
 15 *Byron Andrews, et al. v. Prospect Mortgage, LLC*, No. 1:13-21453 (S.D. Fla. filed Apr. 23,  
 16 2013); *David Alexander, et al. v. Prospect Mortgage, LLC*, No. 1:13-01312 (N.D. Ga. filed Apr.  
 17 19, 2013); *John Dispirito, et al. v. Prospect Mortgage, LLC*, No. 1:13-00192 (D. Haw. filed Apr.  
 18 23, 2013); *Judy Bauer, et al. v. Prospect Mortgage, LLC*, No. 1:13-00190 (D. Idaho filed Apr.  
 19 23, 2013); *Jeremy Allaway, et al. v. Prospect Mortgage, LLC*, No. 1:13-03004 (N.D. Ill. filed  
 20 Apr. 22, 2013); *Judith Albertson, et al. v. Prospect Mortgage, LLC*, No. 1:13-00653 (S.D. Ind.  
 21 filed Apr. 22, 2013); *Andrew Glenn, et al. v. Prospect Mortgage, LLC*, No. 4:13-00184 (S. D.  
 22 Iowa filed Apr. 23, 2013); *Damon Cutty v. Prospect Mortgage, LLC*, No. 5:13-00820 (W.D. La.  
 23 filed Apr. 23, 2013); *Larry Cadenhead, et al. v. Prospect Mortgage, LLC*, No. 1:13-01186 (D.  
 24 Md. filed Apr. 22, 2013); *John Alves, et al. v. Prospect Mortgage, LLC*, No. 1:13-10985 (D.  
 25 Mass. filed Apr. 22, 2013); *Laura Noble v. Prospect Mortgage, LLC*, No. 5:13-11837 (E.D.  
 26 Mich. filed Apr. 23, 2013); *Thomas Gallagher, et al. v. Prospect Mortgage, LLC*, No. 0:13-  
 27 00941 (D. Minn. filed Apr. 23, 2013); *Carlos Arias, et al. v. Prospect Mortgage, LLC*, No. 2:13-  
 28 00671 (D. Nev. filed Apr. 22, 2013); *Matthew Zimmerman, et al v. Prospect Mortgage, LLC*, No.

1 2:13-02585 (D.N.J. filed Apr. 23, 2013); *Catherine Avants v. Prospect Mortgage, LLC*, No.  
 2 1:13-00376 (D.N.M. filed Apr. 23, 2013); *Lisa Baez, et al. v. Prospect Mortgage, LLC*, No.  
 3 1:13-02449 (E.D.N.Y. filed Apr. 23, 2013); *Sadiki Pierre, et al. v. Prospect Mortgage, LLC*, No.  
 4 1:13-00453 (N.D.N.Y. filed Apr. 23, 2013); *Justin Couillard, et al. v. Prospect Mortgage, LLC*,  
 5 No. 1:13-02676 (S.D.N.Y. filed Apr. 23, 2013); *Thomas Del Gaizo, et al. v. Prospect Mortgage, LLC*,  
 6 No. 6:13-06200 (W.D.N.Y. filed Apr. 19, 2013); *Van Fleming, et al. v. Prospect Mortgage, LLC*,  
 7 No. 4:13-00098 (E.D.N.C. filed Apr. 19, 2013); *Stacey Johnson, et al. v. Prospect Mortgage, LLC*,  
 8 No. 1:13-00331 (M.D.N.C. filed Apr. 19, 2013); *Joseph Keever, et al. v. Prospect Mortgage, LLC*,  
 9 No. 3:13-00241 (W.D.N.C. filed Apr. 19, 2013); *Victor Chappell v. Prospect Mortgage, LLC*,  
 10 No. 1:13-00911 (N.D. Ohio filed Apr. 23, 2013); *Gregory Barnhart, et al. v. Prospect Mortgage, LLC*,  
 11 No. 3:13-00669 (D. Or. filed Apr. 19, 2013); *Richard Kaponer v. Prospect Mortgage, LLC*, No. 9:13-01121 (D.S.C. filed Apr. 25, 2013); *Dorianne Blunt, et al. v. Prospect Mortgage, LLC*, No. 3:13-01595 (N.D. Tex. filed Apr. 25, 2013); *Brian Hopple v. Prospect Mortgage, LLC*, No. 3:13-00137 (W.D. Tex. filed Apr. 22, 2013); *Thomas Sehler, et al. v. Prospect Mortgage, LLC*, No. 1:13-00473 (E.D. Va. filed Apr. 18, 2013); and *Julie Cairone, et al. v. Prospect Mortgage, LLC*, No. 2:13-00722 (W.D. Wash. filed Apr. 24, 2013).

17       3. Plaintiffs' Counsel is currently litigating against CashCall, Inc. on behalf of  
 18 mortgage underwriters and loan processors in Orange County. Defendant CashCall, Inc. enforced  
 19 an arbitration agreement with a class action agreement on all but two Plaintiffs who did not sign  
 20 arbitration agreements as part of their employment with CashCall.

21       4. Since the enforcement of the CashCall arbitration agreements in March of 2013,  
 22 Plaintiffs' Counsel has filed over 85 individual arbitration demands against CashCall with JAMS  
 23 and has litigated five such cases through a full arbitration hearing. The litigation is ongoing. We  
 24 will likely file at least eighty more arbitration demands during the course of the litigation.

25       5. Nichols Kaster had extensive experience representing employees in wage and hour  
 26 matters. My firm has litigated three FLSA collective actions to verdict. Currently, the firm is sole  
 27 class counsel, representing a class of over 30,000 employees, in *Sibley, v. Sprint Nextel Inc*, Case  
 28 No. 2:08-CV-02063-KHV/JPO. *Sibley* involves alleged damages of well over \$170,000,000, and

1 was set for trial in June of this year until the court appointed a special master to resolve several  
 2 key motions.

3       6.      Adam W. Hansen will argue on behalf of Petitioners Jerome Nickols, Ryan Henry,  
 4 and Beverly Buck in front of the United States Supreme Court this fall in the matter of *Nickols,*  
 5 *et al. v. Mortgage Bankers Association*, No. 13-1052.

6       7.      I am a partner at Nichols Kaster. I have been practicing law for over eight years. I  
 7 was admitted to the Minnesota Bar in 2005, and the California Bar in 2007. I joined Nichols  
 8 Kaster in 2005, and have been part of the firm's wage and hour practice since that time. Adam  
 9 Hansen is an associate at Nichols Kaster. After graduating from the University of Minnesota Law  
 10 School in 2008, he clerked for the Minnesota Supreme Court and the United States Court of  
 11 Appeals for the Eighth Circuit. Mr. Hansen joined Nichols Kaster in 2011, and since then his  
 12 practice has focused almost exclusively on the representation of employees in individual and class  
 13 litigation.

14       8.      As of mid-July 2014, my firm had billed over 240 hours on this case, incurring  
 15 over \$70,000 in uncompensated legal fees. My firm's work on the file included 1) initial  
 16 investigation of potential claims; (2) drafting the various initiating documents; (3) interviewing  
 17 Named Plaintiff as well as numerous other potential opt-in Plaintiffs regarding their claims; (4)  
 18 efforts during informal discovery and mediation; (5) preparing detailed mediation materials  
 19 analyzing the facts, law, and damages; (6) preparing for and attending mediation; (7) negotiating  
 20 the settlement terms post-mediation; (8) performing damage calculations based on data provided  
 21 by Defendant; and (9) drafting settlement document and the joint motion for approval of the  
 22 settlement. Much of my firm's pre-suit investigation of the claims occurred before we opened a  
 23 file in our billing software, and as such, it is not included in our billing records.

24       9.      Attached hereto as **Exhibit A** is a true and correct copy of my firm's bill of costs  
 25 for this case. The costs to date total \$10,599.82.

26       10.     This settlement does not include Rule 23 claims. Class members who do not return  
 27 Opt-In and Release Forms to join the settlement will not release any claims. These terms were  
 28 essential to my firm's willingness to settle this case on the terms and for the amount on which the

1 parties agreed.

2       11. My firm entered into contingency fee agreements with Plaintiff Rosh and early  
3 opt-ins in this case. This fee agreement entitles my firm to seek attorneys' fees under fee shifting  
4 statutes, or to recover a portion of any settlement or judgment. Additionally, my firm was  
5 obligated to advance all costs of this proceeding, and agreed to pay any adverse award of costs.  
6 The fee agreement in this case is commonly used by Nichols Kaster in similar cases to recover  
7 unpaid wages.

8       12. Because of this contingency fee arrangement, my firm has not received any  
9 payment for the time spent litigating this case, nor have we received reimbursement for our out-  
10 of-pocket costs during the litigation. Nichols Kaster alone undertook the financial risk of  
11 potentially unsuccessful litigation.

12       13. Nichols Kaster will continue to represent the Plaintiff and opt-ins throughout the  
13 settlement administration period as funds and tax documents are disseminated to ensure the  
14 documents are mailed in a timely fashion and to answer any potential questions regarding the  
15 settlement.

16       14. Plaintiff Rosh provided important assistance and aided my firm in investigating,  
17 filing, litigating, and resolving this action. Several Class Members contacted us during our initial  
18 investigation of the case, and others were unwilling to serve as the named Plaintiff. The suit  
19 could not have been filed without someone like Plaintiff Roth stepping forward to serve as the  
20 lead Plaintiff.

21       15. In my experience representing employees of start-ups, employees are often  
22 hesitant to start a lawsuit against their employer. Several potential clients contacted my firm  
23 during the initial investigation of this case, and others besides Plaintiff Rosh were unwilling to  
24 serve as a named Plaintiff.

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1 I declare under penalty of perjury under the laws of the State of California and the United States  
2 that the foregoing is true and correct.  
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4 Dated: August 1, 2014

s/Matthew C. Helland

Matthew C. Helland

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